

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER QUALITY
OCTOBER 17, 2017**

ITEM 7

SUBJECT

CONSIDERATION OF PROPOSED GENERAL WASTE DISCHARGE REQUIREMENTS FOR DISCHARGES OF WASTE ASSOCIATED WITH CANNABIS CULTIVATION ACTIVITIES

DISCUSSION

The cannabis general waste discharge requirements order (General Order) addresses discharges of waste associated with legal cannabis cultivation activities and will be applicable statewide. The Division of Water Quality developed the General Order in collaboration with the Division of Water Rights and the California Department of Fish and Wildlife. Because the North Coast and Central Valley Regional Water Boards had existing region-specific orders, the General Order includes a method to transition those enrollees to the statewide General Order. The General Order includes a tiered approach to regulation based on the amount of disturbed land areas. Tiers include:

- A personal use exemption for non-commercial medical or recreational cannabis cultivation.
- A conditional waiver for small commercial outdoor cultivation (less than 2,000 ft²) and all indoor commercial cultivation activities.
- Enrollment for Tier 1 sites (between 2,000 and one acre), and Tier 2 sites (greater than one acre).

All commercial cultivation activities must obtain coverage under the General Order. The California Department of Food and Agriculture's (CDFA) CalCannabis Cultivation Licensing Program will require proof of enrollment under the Statewide General Order, the North Coast Regional Water Board conditional waiver of waste discharge requirements (WDRs), or the Central Valley Regional Water Board general WDRs order before issuing a cannabis cultivation license (required to sell the commodity in the marketplace). State Water Board staff have developed an on-line application system for applicants. The application requires the applicant to certify compliance with the requirements of the Cannabis Cultivation Policy and General Order; those applicants that cannot certify compliance in accordance with the schedule, must contact the Regional Water Board to establish a compliance schedule.

Attachment A in the Cannabis Cultivation Policy and General Order establishes the requirements, prohibitions, and technical report requirements; Attachment B provides a monitoring and reporting program; Attachment C provides a notice of termination form; and Attachment D provides guidance documents for the technical reports. Adoption of the General Order is exempt from the California Environmental Quality Act pursuant to California Water Code Section 13149(b).

Cannabis cultivators will benefit from a streamlined application process, the on-line application submittal tool, equitable regulatory costs, guidance for technical report preparation, and reduced delays in obtaining coverage. The on-line application submittal tool will allow the Regional Water Boards quicker access to the applications which should reduce permitting delays and

enhance data management. Streamlining the permitting process will allow the Regional Water Boards to focus their time on conducting inspections, education/outreach, and enforcement.

The 60-day public comment period for the draft General Order began on July 7, 2017, and ended on September 6, 2017. Staff issued public notice of the draft General Order, workshops, and State Water Board hearing to: 1) the State Water Board, North Coast Water Board, and Central Valley Water Board Cannabis Cultivators electronic email notification listings, 2) the North Coast Water Board and Central Valley Water Board enrollees, 3) all counties and interested parties, 4) major newspapers throughout the state, and 5) State Water Board's website. The Divisions of Water Rights and Water Quality provided staff workshops and a State Water Board workshop to engage and solicit input regarding the proposed General Order and Cannabis Cultivation Policy.

Staff reviewed and considered the comments and have prepared a response to comments. The draft General Order was revised based on public comments.

POLICY ISSUE

Should the State Water Board adopt the proposed General Order for discharges of waste associated with cannabis cultivation activities?

FISCAL IMPACT

The State and Regional Boards have received resources, positions, and spending authority to develop and initially implement the General Order. The Water Board has, in coordination with stakeholders, developed and adopted a fee schedule to support the program with cannabis fees to be deposited into the Waste Discharge Permit Fund. The fee schedule was approved in September 2017. The General Fund is budgeted to bridge any initial potential gap in funding the program until sufficient fees are collected from permitting to fully support the program. The general fund is only budgeted to be utilized for one year (FY 17-18) as the program is budgeted to be fully funded with fees in FY 18-19.

REGIONAL BOARD IMPACT

If adopted, the General Order will be available to the Regional Water Boards to regulate discharges of waste associated with cannabis cultivation activities meeting the eligibility criteria in the Cannabis Cultivation Policy and General Order.

STAFF RECOMMENDATION

Staff recommends that the State Water Board adopt the General Order for discharges of waste associated with cannabis cultivation activities.

State Water Board action on this item will assist the Water Boards in reaching Goals 1 and 6 of the 2010 Update to Strategic Plan 2008-2012 to protect and restore water quality and enhance consistency across the Water Boards by implementing regional basin plans to address 2006-listed water bodies; addressing non-point source pollution; streamlining and making consistent cannabis related waste discharge requirements; prioritizing staff resources, minimizing administrative burdens; and conducting site inspections, education/outreach, and enforcement. In particular, approval of this item will assist in controlling non-point source pollution (activities on national forest system lands) and Action 1.3.2 (programs to protect surface waters).